

7 FAM 820 NOTARIAL REFUSALS AND SPECIFIC WAIVERS

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7 FAM 821 REFUSALS

Consular officers should refuse requests to perform notarial acts only after careful deliberation. The consular officer must report each refusal in detail to the Department, clearly giving the reasons for the refusal. The report must bear the TAGS identifier: CJAN; the subject: NOTARIAL REFUSAL; and the caption: CA/OCS/CCS.

7 FAM 822 NOTARIALS PROHIBITED BY U.S. LAW

A consular officer must refuse to perform notarial acts for use in transactions that are prohibited by law or by regulations of the U.S. Government (see 22 CFR 92.9). The Department will advise posts of regulations that prohibit notarial acts, promulgated in accordance with the Trading With the Enemy Act (TWEA) (50 U.S.C. App.) and the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1701). For example, in 1980 the Department issued a regulation that temporarily ordered the refusal of notarial acts in connection with financial transactions of Iranian nationals, based upon the TWEA and IEEPA.

7 FAM 823 BEST INTERESTS OF THE UNITED STATES

A consular officer may refuse to perform a notarial act if the officer has reasonable grounds to believe that it will be used for a purpose that is unlawful, improper, or inimical to the best interests of the United States.

7 FAM 824 NOTARIALS NOT AUTHORIZED BY TREATY OR HOST COUNTRY LAW

A consular officer may perform only those notarial services authorized by treaty between the United States and the host country or permitted by the laws or authorities of the host country. Consular officers should refuse to perform notarial services that are not so authorized. For example, the laws of Switzerland prohibit the taking of depositions; consular officers in Switzerland may not administer an oath in connection with a deposition.

7 FAM 825 NOTARIAL PRIVILEGE

Provided that no substantial and compelling reasons impel restraining action, a consular officer should not limit the general privilege of a U.S. citizen abroad to make any statement under oath, including statements that are mistaken, unnecessary, and even frivolous.

7 FAM 826 WAIVER OF RESPONSIBILITY

If the consular officer has reason to believe that material statements in a document presented for notarization are false or has reason to doubt the legality of the use to which the document will be put and, if there is no other basis for refusing the notarial service, the officer may inform the applicant that the service can be performed only with a specific waiver of responsibility included in the notarial certificate. This waiver should not be used routinely. The language of the waiver should be along the following lines:

I assume no responsibility for the truth or falsity of the representations which appear in the foregoing (or, annexed) document.

7 FAM 827 Statement of Verifiable Facts

A consular officer may, as a matter of discretion, add to the specific waiver in the notarial certificate (see section 7 FAM 826) a statement of verifiable known facts that will reveal the questionable nature of material in the document or the circumstances that have warranted the use of the specific waiver. For example:

John Doe has executed at this office 20 affidavits of identical nature for visa cases during the past 3 months.

Consular officers should not perform a notarial service with respect to a document when they know that the facts asserted in it are false.

7 FAM 828 AND 829 UNASSIGNED